TRAVANCORE
GOVERNMENT GAZETTE
SUPPLEMENT.

Tuesday,
19th June 1906.

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Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 3 P. M. on Saturday the 9th June 1906. / 27th Edavom 1081.

PRESENT.

T. Rajaram Row Esquire, B. A., Dewan Peishkar, In Charge ... ... *Presiding.*

A. Govinda Pillai Esq., B. A. & B. L.
V. I. Kesava Pillai Esq., M. A.
A. J. Vieyra Esq., B. A.
R. Mahadeva Iyer Esq., B. A.
E. Rama Iyer Esq.
K. G. Sesha Aiyar Esq., B. A. & B. L.
E. J. John Esq., B. A. & B. L.
P. Raman Tampi Esq., B. A. & M. L.

R. Viraraghava Aiyangar Esq., B. A. & B. L. ...*Secretary.*

The Secretary reported to the Council that he had just received the minutes of the Travancore Vakils Association on the Civil Courts Regulation Amendment Bill and the High Court Regulation Amendment Bill. By direction of the President, the Secretary read to the Council the minute of the Association on the Civil Courts Regulation Amendment Bill.

CIVIL COURTS REGULATION AMENDMENT BILL.

Mr. Vieyra.—I beg to move for the principle of the Civil Courts Regulation Amendment Bill being affirmed. In applying for leave to introduce this Bill, I urged the immediate necessity for this measure of relief to the hard-worked Munsiffs, in view of the present state of litigation and the anticipated increase in keeping with the material progress of the country. I explained that the modifications proposed involve no departure from the principles underlying the measures in existence for the improvement of the judicial machinery. I also sketched a rough outline of the nature of the relief proposed to be given and of the consequent adjustments in the judicial establishment.

The Council granted me permission to introduce the Bill, and the draft has been published and circulated among the members. They have also had before them the memorandum of the late Dewan on which the Bill is based and the opinions of the learned Judges of the High Court both on the memorandum and the Bill itself. Their opinion, you will observe, is in the main undivided as to the immediate necessity of adopting measures of relief to a hard-worked body of public servants, consistently with the speedy and efficient administration of justice.

Relief may be afforded in two ways—firstly, by an increase in the number of Munsiffs' Courts, and secondly by an adjustment of the pecuniary jurisdiction of the several grades of courts. Obviously, the first is out of the question. It will be harking back to old methods and feeding the litigious spirit of the people. The system of relief afforded by the appointment of Itinerant Munsiffs to work off arrears has been deservedly condemned. The High Court, the most competent authority to pronounce on the subject, observe that the system has been found by experience to have the evil effect of dividing the responsibility of Munsiffs and of slackening their efforts in expectation of relief. I do not wish to weary the Council with quotations from the observations of all the Judges, but would ask to be permitted to quote Mr. Justice Hunt. He says—"I welcome the present scheme because in the first place I deprecate the employment of Itinerant Munsiffs and temporary appointments. In the case of Itinerant Munsiffs, I believe, about half the work they profess to do has to be done over again by the Appellate Courts. The reason is they are simply birds of passage, and as they are deputed for the sole purpose of clearing off arrears of work and are (more often than not) temporarily deprived of home comforts, they simply rush through their files. We are at present drifting—gradually drifting—back to the times when there was a Munsiff's Court in every Taluq in this State. Temporary arrangements run the risk of becoming permanent ones and an increase in courts is an encouragement to an already over-litigious people to litigate." The only desirable step possible therefore is to endeavour to lighten the work of the Munsiffs. The Bill accordingly proposes:—

(1) to raise the small cause jurisdiction of the Munsiffs to Rs. 50 and to empower Government to raise their ordinary jurisdiction up to Rs. 2000 and to invest any Munsiff with small cause jurisdiction up to Rs. 100.

(2) to create Subordinate Judges' courts with ordinary jurisdiction up to Rs. 2500 and small cause jurisdiction up to Rs. 200, and also to empower Government to enhance their ordinary jurisdiction to Rs. 5,000 and to invest any Subordinate or District Judge with small cause jurisdiction up to Rs. 300.

The Bill also empowers Subordinate Judges to hear appeals from the decisions of Munsiffs in suits not exceeding Rs. 500 in value and seeks to empower Government to authorize any Subordinate Judge to have an independent appeal file and to hear appeals from the decisions of Munsiffs in suits exceeding Rs. 500 in value. The Bill also proposes to remove an anomaly in regard to appeals in suits of above Rs. 500 in value disposed of by the Munsiffs. These lie to the District Court under the Bill instead of to the High Court as at present.

It may be stated that in raising the small cause jurisdiction of the Munsiffs to Rs. 50 the Bill proposes to enact nothing new. The provision is already in the Statute Book, though optional. At present about half the number are invested with this higher jurisdiction and evidently there has been no reason to regret this step. The Bill simply proposes to make this optional provision absolute. It is therefore surprising that this proposal should be objected to and even viewed with alarm in some quarters.

Let us however turn to the High Court. The Chief Justice and Mr. Justice Padmanaba Iyer are in favour of the measure. They are of opinion that "the steady improvement in the *personnel* of the Munsiffs and the necessity for giving them some relief justify the proposal. In the Madras Presidency and in the Native States of Mysore and Cochin, all Munsiffs, as observed in the Statement of Objects and Reasons, exercise small cause jurisdiction up to Rs. 50 and in the case of the Munsiffs of Madras, such jurisdiction is sometimes raised to Rs. 200."

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I may also be permitted to quote the individual opinion of Mr. Justice Padmanaba Iyer:— "The proposals in the Memo in regard to small cause jurisdiction appear to be the only practical and feasible solution for giving relief to the overworked Munsiffs. A number of them have been already invested with small cause powers up to Rs. 50 and the system appears on trial to work well. Looking at the qualifications of the remaining Munsiffs they too can well be given the same powers." The other two Judges are also in favor of the measure.

In the face of such a concensus of opinion, it appears to me that the fear of miscarriage of justice has no foundation whatever. The proved competency and character of our Munsiffs furnish the strongest support in favor of the modification now proposed.

The proposal to empower Government to raise the small cause jurisdiction of any Munsiff up to Rs. 100 need not raise any apprehension. It will be remembered that this power will be exercised by Government only on the recommendation of the High Court and I presume that this will be a sufficient safeguard.

The effect of raising the small cause jurisdiction of all the Munsiffs to Rs. 50 would be, taking the figures for 1079, to transfer about 1800 suits from the regular to the small cause side. The total file of the Munsiffs would then stand at 18,000 regular suits and 22,000 small causes. The provision to empower Government to raise the ordinary jurisdiction of the Munsiffs to Rs. 2000 is only an enabling provision and will be exercised in cases of special necessity only.

These provisions however would not of themselves give the Munsiffs all the relief that is necessary. Five Subordinate Courts are therefore proposed to be created. The District Courts will then be reduced to three. All the learned Judges of the High Court are in favor of the creation of an intermediate grade of court between the District and Munsiffs' Courts and of investing them with small cause jurisdiction up to Rs. 200. This provision is not new. It is only an extension of the small cause powers now exercised by them and is far less than that given to this class of courts in the Madras Presidency. This would serve to reduce the file of the Munsiffs further by about 7,500 ordinary suits. With a file thus reduced, there will be no further necessity for an increase in the strength of the Munsiffs, either itinerant or permanent. The quantity of work falling to each officer's share will be quite within his capacity.

The only other provision in the Bill which calls for special comment is in regard to appeals in suits exceeding Rs. 500 in value. These appeals now lie to the High Court direct. This is an anomaly which would be removed by making these appeals lie ordinarily to the District Courts and under special authorization to the Subordinate Courts proposed to be created. This is not criticised by any of the Judges of the High Court. Mr. Justice Padmanabha Iyer emphatically asserts that it is "not only not open to objection, but will give the parties the benefit of a second appeal to the High Court in such cases as in others".

I trust that sufficient arguments have been brought forward to show that a reorganisation of the Judicial Department on the lines contemplated in the Memo is not only necessary, but will tend to remove the differences which now exist between our judicial system and its British model. If the principle of this Bill is affirmed in Council, any suggestions or opinions in regard to details may be considered by the Select Committee. I do not flatter myself that the Bill as it now stands is perfect in every detail. The experience and technical knowledge of my learned brethren on the Council will doubtless be of immense help in so shaping the Bill as to satisfy all requirements. I only ask that the general principle may be affirmed.

Seconded by Mr. Mahadeva Iyer.

Mr. Kesava Pillai.—The first point to be considered in connection with this Bill is whether the reforms proposed are necessary. The last Regulation amending the Civil Courts Regulation was passed in 1077 M. E. *i.e.*, about 4 years ago.

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I do not think that the conditions of life in Travancore have altered so much during this short period as to demand any important changes in the machinery of the Judicial Administration. The reforms in the Judicial Department have been more frequent than in other Departments of the Government, which fact may lead one to suspect that the readjustments have not always been due to necessities induced by natural causes.

In the Memorandum on which the Bill is based the reason given for altering the Law is increase in litigation due to two causes—*viz.* (1) the introduction of the Railway and (2) the settlement operations. The Vakils Association composed, I believe, of some of the best lawyers in the State is, however, of opinion, that the increase in litigation and the causes assigned therefor are more imaginary than real. I agree in this view. My experience of the railway and its advantages has not in any way convinced me that there has been any appreciable increase in trade or the transactions relating to trade. On the other hand, so far as I know the railway is not a paying concern. With regard to the settlement operations it is doubtful whether they have a tendency to increase litigation. I am of opinion that settlement operations if properly conducted may decrease and not increase litigation.

The statistics of the last four years show that there have been fluctuations in the quantity of Civil litigation in the country, but there are no grounds for the allegation that there has been any steadily growing increase which demands an immediate re-organization of the Judicial Department.

Granting, however, for argument's sake that there has been an increase in litigation, as is alleged in the Memorandum, the question is what is the best way of coping with the increased work. If there is any increase in litigation consequent on natural causes the proper course is to increase the number of judicial tribunals so far as may be absolutely necessary. The remedy is not by resorting to summary methods of judicial procedure. The course suggested in the Bill is a summary dispensation of justice which may not be quite beneficial to the people. What we want is fair and impartial administration of justice which cannot be secured by the short and easy method of extending the small cause jurisdiction of the courts. If more courts are required the litigant public may pay the cost of establishing them whenever funds may be found insufficient. It is not by reducing the number of courts nor by the adoption of summary methods that the demands of justice can be met.

It is said that increase in the number of courts is likely to increase litigation. I do not think that increase in litigation will result from increase in the number of courts. Increase in litigation is generally due to changes in the habits and customs of the people and to the necessities of their situation caused by altered circumstances. Few litigants would without sufficient cause rush to the Civil Courts if they could possibly avoid it. Civil litigation is a course adopted in the last resort. The percentage of cases in which unnecessary litigation is carried on is indeed very small. Hence the theory that increase in the number of courts will increase litigation does not appear to be sound or well-founded. If there is actual increase in litigation the number of courts has necessarily to be increased so as to meet the demand.

With regard to the establishment of Subordinate Courts I may say that it is not likely to result in much good. The District Courts as now constituted have a *personnel* superior in quality to the *personnel* which may be expected for the proposed Subordinate Courts, while the character of the work to be assigned to both classes of courts will be substantially the same. The lowering of the dignity and prestige of the highest courts of original civil jurisdiction is to be deprecated.

For these reasons I cannot agree to the main principles involved in the Bill.

The other matters dealt with in the Bill relate to details which need not be considered at this stage.

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Mr. Rama Iyer.—Sir, the measure we are called upon to discuss the principle of is an important one. It has been engaging my most anxious consideration as far as I could bestow and the few remarks which I propose to offer are the result of my deliberate conviction after a careful study of the whole question. This preface I feel necessary to make because in what I am going to say touching some important provisions in the Bill I have to be against the opinion of the majority of the learned body of the Judges of the High Court who have expressed their views on the Bill and against the views contained in the memorandum of the late Dewan on which the Bill itself is based. I considered over them and tried to see whether I could not possibly agree but I am sorry to say that I am unable to bring myself to agree to the main principles of the Bill.

Sir, this legislation is now taken up on the main, if not the sole, ground of relieving the over-worked Munsiffs. Well, the first question then is whether the proposed measure would really secure that object and secondly how the remedy proposed would affect the sound administration of justice.

Now, Sir, we are told that our Munsiffs on an average dispose of 1000 original suits and 1000 small causes. In the first place this average appears to me to be a little unsound. Referring to the Appendix of the Administration Report for 1080 I find that while one court is called upon to dispose of 4000 and odd suits, another has to dispose of only 1300 and odd. While 10 courts have a file of above 2000 suits a year the remaining courts have only a file of below 2000, so that we cannot say that as a body all the Munsiffs are over-worked, though undoubtedly some of them are over-worked. There are reasons why in particular courts the suits are more in number. It is mainly due to the not-adequate arrangement of the territorial jurisdiction. Probably the conditions of Travancore and the nature of the different places do not admit of such equal distribution of territory as to make the litigation in the centres nearly equal. Whatever may be the cause, there is the fact. Besides, the greater number of suits filed and disposed of in some courts is not always an index that the work is proportionately heavier. In centres like Quilon many of these are money suits and a large portion of them are disposed of either *ex parte* or on admission. Well now, the remedy proposed is certainly not confined to relieve the over-worked Munsiff Courts alone. The remedy proposed consists chiefly in investing all the Munsiffs with small cause jurisdiction up to Rs. 50 and withdrawing from them money suits between 50 and 200 Rs. in value and transferring such suits to District or Subordinate Judges in their small cause file. Suits below Rs. 50 are to be with them and the question is only how they are to be dealt with. Between Rs. 30 and 50 some courts have small causes, others have not. What is proposed to do is to invest all Munsiffs with small cause powers up to Rs. 50. This is but a minor matter. The main point relates to withdrawing money suits between 50 and 200 from the Munsiffs and investing the District Courts and Subordinate Courts with small cause jurisdiction over those suits. We find suits between 50 and 200 are 7500, which is apparently a pretty large number. Divided between 20 Munsiffs it comes to 375 per Munsiff, a good number too. When you go a little deeper and examine the figures, how many of these are contested and are really troublesome work to the Munsiff? That is the next question to consider. As far as I see—and I must claim some experience of the lower courts—it is not the money suits that give real difficulty to the Munsiffs. It is the property suits that take $\frac{9}{10}$ of their time. Of these 7,500 suits how many are contested? I was not in a position to obtain the figures. But I tested in another way. Appeals out of these 7,500 have been only about 500. Appeals in personal suits between 50 and 100 Rs. value and such suits between 100 and 200 Rs. value have been only 253 each *i. e.* 506 in all. Our experience tells us that generally whenever there is a really contested suit there has been an appeal also. Really contested suits out of these 7,500 may thus be taken as about 500. Dividing that number by 20 you get 25 suits per Munsiff. This is the extent of relief aimed at. Let it be remembered that these are money suits of a small cause nature. There are no complicated questions to decide and they are generally disposed of by the examination of 2 or 3 witnesses in a case. I do not think, Sir, that this reduction of 25 money suits of a small cause nature will

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materially assist the over-worked Munsiffs. I need hardly point out that the reduction of the 375 non-contested suits from the file of the Munsiff is no real relief to him. We will grant, however, there will be some relief. But compare the disadvantages of the system of your taking away 7500 cases from these Munsiffs and giving them to the Subordinate Judges. Leaving the 500 contested suits, there remain 7000 suits and suitors from remote corners are asked to come a long way to the centres of District and Subordinate courts. When they come to a higher court, generally higher vakil-fees are asked and the expenses of going to and fro, and producing witnesses in these centres will certainly be much higher. When a suitor has to bring a witness from Thiruvella to Alleppey he has certainly to spend more money than he would have to spend at Thiruvella. I think, these are points which I need not dilate upon. I may say that this transfer of jurisdiction from Munsiffs to District Courts may only benefit the vakils practising in the District courts at the cost of the suitors. Taking the ryot whose case we have to represent here I do not think, Sir, that the advantages that may be gained in the way of giving relief to the Munsiffs are in any way proportionate to the disadvantages caused to the suitors. Further while these 7,000 suits are actually now disposed of by the Munsiffs within just the time that would be needed even if they were small causes, to declare these suits as small cause suits along with 500 contested suits carries with it a risk of unsatisfactory disposal because the very nature of the exercise of small cause jurisdiction even by the most conscientious judge leads to a certain amount of indifference, involuntarily as it were, owing to pressure of work and various other causes. All that I say is you have got a certain state of things by which you are benefited. You want to change it to another system. If the advantages of the change are really such as must induce you even to put up with slight disadvantages, you may adopt it. But this mode of transfer from one court to another—from the Munsiffs' court to the District and Subordinate courts—is not the solution, in my humble opinion, to find relief to the hard-worked Munsiffs. We know it as a fact the money suits do not take much of the time of the Munsiffs. It is one tough property suit that takes away a number of days of our Munsiffs. Really the relief if anything is very little, while the disadvantages to the suitors are overwhelming and the only effect of the proposal would be to reverse the policy declared when the now existing law was passed that it was intended to "bring justice nearer home to a larger number of people." I regret therefore that I cannot agree to the small cause jurisdiction proposed to be given to the District or the Subordinate Judges in suits between 50 to 200.

The next point relates to giving small cause jurisdiction to all the Munsiffs up to Rs. 50. I myself have got no objection. But what struck me was we have the provision even under the existing law enabling Government to invest Munsiffs with small cause jurisdiction up to Rs. 50. If the High Court think that all the Munsiffs could be invested with this power, why then only 9 of them have been invested with that power as yet ? There must be one of two reasons, namely, that the authorities are not quite satisfied with all the Munsiffs or the territorial jurisdiction of some of the Munsiffs is such as not to require the investing of this power. If either of them be the cause then it is better to leave things as they are. If, however, the Government think it expedient, they can invest all the Munsiffs with that power to-morrow and there is no need for fresh legislation for the purpose. The number of suits now tried as ordinary suits between 30 and 50 Rs. value are 2256. If they are to be tried as small cause the average of ordinary original suits may be reduced by 100 thus bringing down the total from 1000 to 900.

As regards the enabling provision to invest some Munsiffs with small cause jurisdiction up to Rs. 100, I note it is only claimed to be exercised very rarely. But for the reasons I have stated against the small cause jurisdiction in general I am not for having this provision also.

As regards the enabling provision to invest some Munsiffs with jurisdiction to try suits between 1000 and 2000 Rs. value, this of course is not intended to give relief to the Munsiffs.

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It will not be denied seriously that the litigation in our country between Rs. 1000 and 2000 probably represents the value of the property of the majority of our people. Thus it appears to me that no grounds are shown for this change in the present law.

The next question is whether you want Sub-Courts in the place of some and in addition to District Courts. The memo clearly tells you that when the sub-courts are created Parur and Nagercoil will be substantially doing the work of District courts though Sub-courts in name and status. All that they will not have is power to try suits above Rs. 5000 and criminal cases not cognizable by the Assistant Sessions Judges. What is the number of these cases? Cases above Rs. 5000 I believe in Nagercoil number 2 and in Parur 3 according to the average of last 3 years—and 4 in both courts in the year 1080. In other words your Subordinate Judges would be doing all that your Zilla judges do minus 2 or 3 suits. When you come to Sessions work I have not been able to get statistics to show how many would be triable by the Assistant Sessions Judges and how many by the Sessions Judges alone. But, I presume, that most of them will be triable by these Assistant Sessions Judges. So then, Sir, the 2 Sub-Judges will be doing all the work now done by the District Judges minus 2 or 3 suits and a few criminal cases. But the status of these Judges is to be lower than the District Judges and slightly better than the Munsiffs. I do not think this arrangement will add to the prestige of the judiciary. Suits of Rs. 5,000 and above that sum we have not many. We have no Zemindars and Nattukottai Chetties here. Our important suits are generally between 1,000 and 2,000. We have to adopt our machinery to suit these conditions. It is not sufficient to think of Subordinate Judges elsewhere and introduce them here. There they have a lot of work to do. It seems to me that that sort of creating a Subordinate Judge and giving him all the powers of a District Judge would not be sound in principle. If the present machinery is doing good work why introduce a class of officers with a status which is not much higher than that of a Munsiff and then give them duties which are vastly greater than his. There is this flaw in the system proposed. As regards creating 3 Sub-Judges—we call them 2nd Judges now—2 we have and one more is proposed. All these three are only to assist the District Judges, which is exactly what they are doing. It is said in one of the opinions that responsibility is not felt by these additional or Second Judges. I do not know whether the Second Judge feels less responsibility than the First Judge. It seems to me that Second Judges do as hard a work as the First Judges. But what are the advantages of the scheme of having Subordinate Judges? If you are to give the small cause jurisdiction between 50 and 200 to these Subordinate Judges who are, as I said, by the status that you give them only a little higher than the Munsiffs, I don't know whether that would be a wise step. The next thing is, if that is not to be given as I believe it ought not to be given them, I say there is hardly any necessity for any change. If the present number of judges is not enough you may have one more judge to lighten the work of the judges; but nothing more appears to me to be necessary in the present state of things.

The only other question in this Bill is about appeals to the High Court direct in cases between Rs. 500 and 1000. Here I am against my learned friends at the bar. I do not think there is any necessity for this direct appeal. As it is, there is an anomaly that in this class of suits, if the appeal relates only to a portion of the amount much below Rs. 500 or even to costs, the appeal has to be taken to the High Court. I think these appeals may lie to the District Courts in the first instance with the advantage of a second appeal to the High Court. If the Bill has to go to the next stage I would vote for this provision of the Bill. But I am certainly not for allowing this Bill to go to the next stage on account of this minor provision as I am decidedly against the main provisions of this Bill. The present Regulation has been in force only for 4 years and after a further trial the amendment of this provision regarding direct appeals to the High Court may be taken up, if necessary. On the whole, sir I am for rejecting the Bill in *toto*.

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Mr. Sesha Iyer.—Sir, I might at the very outset say that I am generally in accord with the views expressed in the minute submitted to this Council by the Vakils Association and the conclusions that have been urged upon your consideration by my learned friends Mr. Kesava Pillai and Mr. Ramaier. This Bill is ostensibly brought with a view to lighten the burden that is said now to be felt by the Munsiffs. There are 3 groups into which the provisions of the Bill naturally fall. The first group relates to Munsiffs and there the provisions that you find in the Bill are that whereas the Munsiffs now generally exercise small cause jurisdiction up to Rs. 30, a few alone being invested with small cause jurisdiction up to Rs. 50, all Munsiffs should be enabled to exercise small cause jurisdiction up to Rs. 50 and in special cases their small cause jurisdiction should be raised to Rs. 100.

The next provision with reference to the Munsiffs is that while their ordinary pecuniary jurisdiction now is Rs. 1000 it should be possible for Government to raise it to Rs. 2000. For the reasons that have been so lucidly placed before you by my learned friends who have already addressed you I should say I am entirely opposed to extending the small cause jurisdiction of the Munsiffs. I have not the least objection to our Munsiffs being invested with small cause powers up to Rs. 50. That by law they could be invested with even now. I do not find much to choose between that class of Munsiffs who have been now invested with the power and the other class who are now allowed small cause power only up to Rs. 30. They are all of them of the same stamp, equally good. I don't see therefore why all of them should not have the same power. Beyond that, Sir, I am not in a position now to advise the Council to go.

As regards the raising of the pecuniary jurisdiction of the Munsiffs' Courts I should also say I am not in favor of it. A thousand rupees is not a small sum in Travancore. Most of the suits before our courts are below a thousand rupees. It is just recently, 3 or 4 years ago, that the Munsiffs were given extended jurisdiction from 500 to 1000 Rs. Nothing has been brought out to show that there is any imperious necessity to still further raise their jurisdiction; and besides, it is only just that those few cases where the value is higher than Rs. 1000—and you will find from the Dewan's memorandum that those cases are very few indeed—should have the advantage of going before the highest original court by which it would be conceded on all hands it is always desirable they should be allowed to be tried in the very first instance. Munsiffs with their ordinary work, and that is of a very miscellaneous nature, may not find it possible to cope satisfactorily with those cases where the subject-matter of the suits is higher than Rs. 1000. If for no other reason than giving satisfaction to the parties that have recourse to the courts of law for adjudication of their just claims I should strongly say it is highly desirable that the very highest original courts in the land must in the first instance have cognizance of these suits.

The second class of provisions in the Bill relates to the creation of Subordinate Courts and investing them and the District Courts with small cause jurisdiction up to Rs. 200. As to the creation of Sub-courts my friend on the other side has already told you how after all the creation of Sub-courts is just one of those matters that may satisfiy the sentiment but are not likely to be of any practical benefit. It seems to me too, that that is virtually the position. Under the Bill you would be giving by the creation of these Sub-courts just one more Second Judge to our Zilla Judges and if that is all, why not do that rather than have a new Bill to create a new court. Besides, as my learned friend on this side has already shown, the position of the proposed Sub-judge compared with the nature of the work that he may be called upon to discharge will be extremely anomalous, at least in certain instances. I don't see any distinct advantage, and if there is not any distinct advantage I don't see why you should have an old article with a new name labelled to it.

As regards the small cause jurisdiction of the District and Subordinate Judges up to Rs. 200 it really means that in all those cases where virtually now the public have a right of appeal even as far as the High Court—because in suits for over Rs. 100 they have a right of second appeal even to the High Court provided they are not cases of concurrent findings and we have very high judicial authority for the opinion that it is

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very difficult to say where exactly you have a case of concurrent findings—you deny a very valuable right they now possess. It is not only that that you do. You deny them the right of appeal altogether. Besides, small cause jurisdiction is always very summarily exercised and there is no denying that fact. Therefore for the more effective administration of justice it seems to me that it is not desirable, at least now, to raise the small cause jurisdiction of the District Judges. Already in a way District Judges are enjoying small cause jurisdiction to the extent of Rs. 100 under the Jenmi and Kudiyan Regulation and in all those cases decided by Munsiffs the value of which is between 50 and 100 Rs. the decision of the District Courts is final. Perhaps it will not be making much change in the existing law if the District Judges are invested with small cause powers up to Rs. 100 and that I find is the recommendation made by the Vakils Association. Even there, I am not prepared to say there will be no hardship; because the Munsiffs' Courts are much nearer their homes, and they will have greater facilities if those suits go before the munsiff? The number of cases between Rs. 50 and 100 is 4637 and of these only 453 go on appeal. This can have only one significance. The litigant public is generally satisfied with the result of these cases before the Munsiff. It also imports that in most of these cases there is really no contention raised. They are really uncontested cases. If it be asked, why should we not then enhance the small cause jurisdiction of the Munsiff to Rs. 100, I should ask in reply where is the necessity to deprive the litigant public of the right of appeal in those very few cases where alone they have shown a tendency to exercise it? It seems to me, therefore, that no reason has been made out for extending the small cause jurisdiction of the District Courts.

The only other provision in the Bill is about the supposed anomaly that now exists in regard to 'direct appeal' from a Munsiff's decree to the High Court. I find from the papers that have been put into my hands this anomaly is emphasised over and over again. Put in that way it may strike one as an anomaly. But if you compare it with what exists elsewhere it may not look an anomaly. In British India in certain cases, from the decisions of the Sub-courts appeal lies direct to the High Court though in certain other cases appeals from Sub-Judge's decisions lie only to the District Court. I have never heard anybody attack the judicial machinery there on the ground that it was anomalous to have allowed an appeal from the decisions of the same tribunal to two different courts. It is because you have no subordinate courts that you have to allow the public to appeal direct to the High Court in suits of large value. You do it only in 141 cases, according to the memorandum. Below Rs. 500 and above Rs. 200 there are 1359 appeals. You see then, that the suits the value of which is above Rs. 500 in which the party really wants to move the highest tribunal, are very few in number and you might take it that a party does not go on appeal just for the pleasure of having to spend money and putting himself to any amount of inconvenience. He goes on appeal only if he fancies he has a real grievance. We find the litigant public feel a real grievance in 141 cases, which is the number of appeals above Rs. 500. They must then be of very great import really to the parties and why should they not have the benefit of a decision by the highest court in the land? The existing Regulation was passed only very recently and the legislature when it introduced that change in the law, I am sure, had very good reasons and it has not been shown that these reasons have ceased to exist now. There is also another very interesting fact which is disclosed by the papers put into our hands and that is this. The learned Chief Justice in his minute on the High Court Regulation says in para 7: "When two judges sit, what escapes one judge is noticed by the other and a more satisfactory decision is arrived at and there have been numerous suggestions from very intelligent and learned persons that the British First Appellate Courts (Sub-Judges' and District Judges' Courts) should consist of a Bench of two Judges, second appeals being restricted." If it is the feeling in British India that even in District Courts appeals should be heard by a Bench of two Judges, why should we deny the right and privilege that the public already possess here of these appeals being heard by a Division Bench of 2 Judges of the High Court? It would be preposterous to ask for a Bench of 2 Judges in the District Courts to hear appeals. That would be a luxury for which the people would not be prepared to pay. But you have got a machinery already so regulated as to allow the people the right to

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have their appeals from decisions of the Courts of First Instance in suits of high value heard by a Bench of 2 Judges of the High Court; and why not allow the people the benefit?

For these reasons, Sir, I am of opinion that the Bill is uncalled for in the main, and therefore I am not in a position to recommend its reference to a Select Committee.

Mr. John.—I have bestowed on this Bill and the papers placed at my disposal relating to the measure my best consideration, and am constrained to say with the learned members, official and non-official, who have spoken on the matter, except my learned friend the member in charge of the Bill that I am unable to accede to the measure or to affirm the principle thereof. There are certain minor provisions in the Bill which are unobjectionable and which if they stood by themselves I should not object to. But in view of the more important changes contemplated in the Bill of the necessity for which I am not satisfied I cannot agree to the Bill being referred to a Select Committee. I find that there are three innovations of a vital character involved in this measure: i. The raising of the smalll cause jurisdiction of Munsiffs immediately to Rs. 50 and eventually to Rs. 100; and to invest Sub-Judges and District Judges with original small cause jurisdiction which may extend to Rs. 300. ii. The raising of the ordinary jurisdiction of Munsiffs from Rs. 500 to Rs. 2,000 eventually. iii. The abolition of appeals direct to the High Court from the decision of Munsiffs.

I desire to make a few observations on each of these, and I assure the Council that I shall be very brief, seeing that the matters have been elaborately dealt with by previous speakers with whom I am in general agreement. I fail to see how the proposals in the Bill in regard to small cause jurisdiction will afford material relief to Munsiffs, some of whom do stand in urgent need of some measure of relief. My friend Mr. Ramaier has shown that the relief they will obtain by the measure is very trifling and does not justify a change of the character proposed in the judicial machinery of this State. Further, I see it claimed for the Bill that it is intended to reduce the cost of litigation. As far as the cost of litigation to the parties is concerned I know there is little to choose between original and small cause trials; in fact till within a few days a small cause trial was proportionately costlier to the successful litigant. Speaking therefore from the point of the litigant public, this change is neither desirable nor necessary.

While on this point it strikes me that we are apt to forget that a small cause trial is after all a necessary evil; and it should never be our attempt to extend the area of that evil except in so far as we may be compelled by overwhelming financial or other considerations. The party who comes into court, pays the institution fee and engages a Vakil certainly will prefer that all these facilities and rights are afforded to him which would be his in an ordinary suit, and it is difficult to see why these should be denied to him because his suit is not above a certain pecuniary value. It might be that in centres of commerce and industry where time and money are more or less convertible terms small cause trials are unavoidable. But I am not satisfied that there are sufficient grounds in this country at the present moment for enlarging the area of this necessary evil.

On the second change proposed, the raising of the ordinary jurisdiction of Munsiffs, I am at one with previous speakers and I do not propose to reiterate the arguments so clearly placed by them before the Council.

In regard to the third proposal, *viz.*, the abolition of direct appeals to the High Court from the judgments of Munsiffs, I believe that the reason why in 1077 this right was reserved in favour of the litigant public was that till that time all suits above the value of Rs. 500 had to be filed in the District and appeals from decisions in those cases were preferred to the High Court where they were heard by two judges. It was then thought that the conditions of the country did not allow that in suits of the value of Rs. 500 and above the final verdict on fact should rest with a single judge of the District Court and that parties should continue to enjoy this

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privilege though the original *forum* was changed from the District Court to the Munsiff. Those reasons exist to-day and nothing has been shown to convince me that there has since been any material change in the conditions of the country or the litigant public necessitating alterations in the Regulation so recently passed. For these reasons, Sir, I am unable to affirm the main principles of the Bill or to agree to its being referred to a Committee.

Mr. Raman Tampi.—Sir, we are now called upon to discuss not a Bill embodying provisions amending our Civil Courts Regulation but one which is ambitious of superseding the existing law on the subject, and entirely repealing the present Regulation. If the form of the Bill were less pretentious, and its scope more modest, some of the provisions would probably have been acceptable to me. As it is, the Bill must stand or fall according as the general principle underlying the main innovations is approved or disapproved by this Council. Although, therefore, I can see no objection to admitting the soundness of certain minor sections of the Bill, I do not feel myself justified in lending my support to the principles involved in it.

The following salient features of the Bill invite our attention. It is sought to empower Government to raise the small cause jurisdiction and ordinary jurisdiction of Munsiffs, to authorise District and Subordinate Judges to try as small causes those suits whose value extends up to Rs. 200 and to vest in Government the power to enhance such jurisdiction up to Rs. 300. The Bill also proposes to remove a supposed anomaly in regard to appeals from decisions of Munsiffs in suits of above Rs. 500 in value.

The main object of the Bill is to afford relief to over-worked Munsiffs not by increasing their number but by raising their small cause and ordinary jurisdictions. As stated in the memorandum submitted by the Vakils Association it has still to be demonstrated that the file of the Munsiffs' Courts is steadily increasing. With the enactment of the Jenmi and Kudiyan Regulation, there happened to be a temporary increase in the number of our civil suits. But since then, the file has not been steadily going up, and the figures of 1080 exhibit a falling off in the number of original suits, as compared with 1079. It is too early to predict the probable effect of the recent settlement operations on the civil litigation in the State, even granting that settlement decisions may give an impetus to the litigious instincts of land owners. I feel convinced that any increase in the number of suits on that account will be but temporary and it will then be time enough to devise some means of relief. Just at present, we need not be over-anxious in our endeavours to lend a helping hand to Munsiffs. At any rate, Government can, without the aid of a legislative measure, afford adequate relief to hard-worked Munsiffs.

The means of relief advocated in the Bill would be inadequate and inappropriate. If from the official point of view it is necessary to relieve hard-worked judicial officers it is but fair for the public to demand the dispensation of justice in return for the costs they incur in that behalf. I am far from advocating the extreme view put forward by Jeremy Bentham, that a citizen is entitled to indulge in litigation freely and without being obliged to pay for it. But it is only equitable to hold that the Judicial Department as a whole should not be merely regarded as a convenient machinery for the augmentation of Government revenue. In fact, the Department yields a net revenue of over a lakh and half at least every year.

The receipts under the head of 'Law and Justice' (Courts of Law) in 1080 nominally amount to Rs. 3,19,967, to which must be added Rs. 3,48,068, the receipts from sale of court-fee stamps, thus yielding Rs. 6,68,035. If the receipts, as compared with those of 1079, have gone down in 1080, the disbursements also show a falling off. The net revenue to Government in 1080 under this item is Rs. 1,74,847 against Rs 1,53,808 in 1079.

These considerations strengthen my argument that, before you deny the tax-payer the right of a regular and fair trial, or the right of appealing to a higher court against what he considers to be unjust decisions of an inferior court, he has every reason to require that the revenue he pays be devoted for the purposes for which it is primarily intended.

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It may be urged that Government should on moral grounds discourage the litigious spirit of the public. I beg leave to answer that there are other directions in which Government may utilise their energies in the cause of good morals. Nor do statistics warrant the inference that our people vexatiously and causelessly rush into Courts of Law. Turning to the figures of 1079, we see that out of 27,815 Original Suits (Civil Suits and Small Causes included) contested on the merits, only 2512 were decreed against the plaintiffs. This shows, if at all, that only 9 per cent. of the contested suits in the land may be pronounced rash or groundless.

The above reasons induce me to discountenance the proposals relating to the enhancement of the small cause jurisdiction of Munsiffs.

The facts and figures cited, and the arguments advanced by the learned members who spoke before me dispense with the necessity of any lengthy remarks from me on the proposal relating to the enhancement of the ordinary jurisdiction of Munsiffs.

The grounds of my disapproval of the proposal to raise the small cause jurisdiction of Munsiffs apply with equal force to the similar proposal regarding superior courts. The alternative suggested by the Vakils Association is to authorise District Judges to try as small causes suits valued up to Rs. 100. Even this proposal does not commend itself to me, inasmuch as the existing practice of District Courts giving final appellate decisions in respect of civil suits valued up to Rs. 100 is defensible on distinct grounds. In the latter case, the Munsiff allows parties the opportunity of a fair and regular trial whereas by giving effect to the suggestion of the Vakils Association we shall be putting parties to heavy expenses and at the same time depriving them of a regular trial and the right of appeal. The analogy of the summary suits contemplated by the Jenmi and Kudiyan Regulation does not warrant this retrograde step. The benefits of a regular trial by a Court of First Instance and the right of appeal are infinitely more valuable to the litigant than the summary trial and disposal of a suit by a superior court, be it a District Court or the High Court itself.

The provision of the Bill which seeks to abolish a party's right to appeal to the High Court from a Munsiff's decree in suits valued above Rs. 500 cannot be defended at all. The number of such appeals is not considerable. If a party who is dissatisfied with a Munsiff's decision has to appeal to a District Court and if again he is disappointed, he is exposed to the temptation of preferring a second appeal to the High Court oftener than not on insufficient grounds. This involves the unfortunate man in useless and additional expenses and trouble, while he is deprived of the chance of having his first appeal heard by a Bench of two Judges. When the law of Travancore had made provision for a Bench of 2 Judges of a Zillah Court to try and dispose of original suits and appeals, such a procedure would have been less objectionable. But this salutary provision of law no longer finds a place in our Statute Book. The learned Chief Justice Mr. Sadasiva Iyer bears eloquent testimony to the wholesomeness of the provision of law which requires a Division Bench to hear and dispose of appeals. He says "when two Judges sit, what escapes one Judge is noticed by the other and a more satisfactory decision is arrived at.....". On the ground that the proposed innovation tends to make litigation more expensive and that it deprives a party of his right to have an appeal decided by a Bench of two Judges, I unhesitatingly object to this feature of the Bill likewise.

The creation of Subordinate Courts with jurisdiction to dispose of original suits and appeals is not in fact any violent departure from existing practice. I should have supported the introduction of such a provision in a Bill which merely aimed at amending our Civil Courts Regulation without repealing and superseding it. As I am unable to support a Bill of the latter character, I regret my inability to approve of the proposals relating to Sub-courts either.

On the whole, Sir, I should request the Council to reject the principle of the Bill under discussion.

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Mr. Mahadeva Iyer.—The Bill before us is an important measure, affecting as it does the judicial administration of the country and naturally also the interests of the public. From the papers that have been placed before us I was led to think that supported as the Bill was by the unqualified approval of the High Court the task before the Council would be comparatively easy. We now find that this is not to be. I must confess that after listening to the arguments put forward so strongly by the array of distinguished lawyers who have just spoken and taking side by side the weighty opinions of the learned Judges of the High Court who have supported the Bill, the problem to be solved is to a layman bewildering enough. It seems to me that the initial difficulty in dealing with the immediate question before us is to distinguish the principle from the details. I have listened with attention to the arguments put forward in the minutes sent up by the Vakils Association as well as to the speeches of the learned members who have now spoken. If I am not mistaken, a good portion of the objections relates to matters of detail. Of course, it is not easy in a Bill like this to distinguish the details from the principle. Almost every section, it may be said, involves a principle. But as we are now concerned with the affirmation of the general principle of the Bill we must, I think, endeavour to make some distinction between its principle and details. As far as I have been able to study the subject, I submit with great deference that the principle of the Bill may be brought under 3 or 4 heads *viz.*, (1) enhancement of the small cause and original jurisdiction of Munsiffs, (2) establishment of Subordinate Judges' Courts, (3) giving small cause jurisdiction within certain limits to Subordinate and District Judges, (4) appeals from the decisions of Munsiffs and Subordinate Judges. These, I consider, are the broad principles underlying the Bill. Each of these provisions naturally contains details also. Whether the objections apply to the principle or to the details is the matter which we have now clearly to distinguish.

I gather from what has been said that there is no objection to the small cause jurisdiction of the Munsiffs being raised to Rs. 50. That however does not require fresh legislation. I simply refer to it to show that as a matter of principle there seems to be no objection to it. Then the question is whether the discretionary power of Government, for which the Bill provides, to enhance this limit should be adopted or not. The argument that there is a fundamental objection on principle to the enhancement of small cause jurisdiction to any extent is one to which a sufficient answer can be found in the opinion of the High Court who, it will be conceded, are the authority most competent to pronounce on the subject. Now, if small cause jurisdiction can be given up to Rs. 50, it is to my mind a matter of detail whether we shall stop with Rs. 50 or may go further as they have done elsewhere. We had at one time Rs. 10, 20 and 30 as the limit of small cause jurisdiction. The objection that is now raised by my friends would be applicable quite as well to the several stages through which we have already passed. If it is a necessary evil as one of the members put it, we have only to see how far we can go in fixing the limit and I think we cannot do better than follow the example of others whom we take as our model.

In regard to the establishment of Subordinate Courts too, the necessity for such a step is questioned and it has also been urged that the relief that is sought to be given by the measure would not be real or adequate and further that we should be introducing a new grade of courts which cannot command much prestige. These arguments are based mostly upon an analysis of statistics which the members have taken the trouble to collect. In the Dewan's Memorandum which forms the basis of this Bill there are some figures given as to the state of litigation and the extent to which the remedies proposed would afford relief to the courts. After listening to the arguments now urged, it strikes me that the Council might consider the desirability of calling for fuller information on the subject. Speaking for myself, I have not been able to collect or examine the figures on which the learned members have based so much of their arguments. Whether in a matter like this detailed information which would throw light on the points which have been urged, would not help the Council is a point which, I think, deserves consideration.

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In regard to the small cause jurisdiction of Subordinate and District Judges, on perusal of the Bill my own impression was that the proposal to convert all suits of between Rs. 50 and Rs. 200 from original suits to small causes would be too drastic a measure in the circumstances of this country. I would adopt the limit of Rs. 100 mentioned in the minutes of the Vakils Association. If Subordinate Courts are to be established, whether they should have small cause jurisdiction up to Rs. 100 or Rs 200 is to my mind a matter of detail and not one affecting the principle of the Bill.

The provisions regarding appeals are a natural sequel to the other changes proposed and may well be considered at a later stage.

These are some general observations which have suggested themselves to me in regard to the remarks which have now been made. I have also noted down a few other points about which I beg to be permitted to say a few words.

The Vakils Association say that the increase in litigation is traceable to three causes *viz.*, insufficient manning of the lower judiciary, laxity of supervision by the superior courts and unequal distribution of territorial jurisdiction. If by insufficient manning is meant that we have not provided a sufficient number of Munsiffs, I need only quote in reply the opinion of the High Court that increasing the number of Munsiffs is not sound policy. As regards laxity of supervision, I am not sure if in respect of out-turn the Munsiffs who as a body are hard-worked need any further pressure to be put upon them. As to the question of re-adjustment of territorial jurisdiction, if we look back at the history of judicial administration we shall find that the High Court have never been wanting in their endeavours to re-adjust the territorial jurisdiction from time to time in view to equalize the work of the Courts and it is only after all the remedies have been tried they now feel convinced that rather than look to such temporary expedients as the establishment of itinerant Munsiffs' Courts, re-distribution of territorial jurisdiction &c., we should resort to a change of system for a satisfactory solution of the question.

I need not mention here that in the matter of judicial administration in particular we have taken the British Indian system as our model. *Festina lente* has been our motto but it is possible we may have moved more slowly than was perhaps warranted by the situation. It is because we have been slow to bring our judicial machinery into line with the British Indian system in respect of original and small cause jurisdiction of Munsiff's and Judges that our courts are unable in spite of their best efforts to cope with the increase in litigation. Because it has not been done in the past, that is no reason why we should not introduce the change, provided it is necessary. The only way to decide whether the remedies proposed are necessary or whether we shall allow things to go on as at present is by an actual examination of the facts and figures bearing on the question. Even the very foundation of the new proposals *viz.*, that there has been increase in litigation, seems now to be questioned. On that point the figures are easily ascertainable. There may have been decrease in some years but judging from the figures for a series of years, I think, it will be found that there has been such an increase in litigation as to call for remedial measures. If that fact itself is now doubted, the best thing would be to have the facts and figures before us.

It is next contended that the remedies proposed would not really secure the object aimed at. After listening to the statistical information furnished by some of the members, it seems to me that the estimate of relief given in the memorandum might be more fully tested with reference to the actual figures for a series of years.

Reference has also been made to the anticipated increase in litigation. In regard to the settlement operations I beg to be permitted to say a word. Settlement operations by themselves may not directly lead to increase in litigation, more especially when it has been declared that pattah confers no title. But with the progress of settlement throughout the country and the immense quantity of pattas that are being issued, it is natural that people would be induced to look into their titles more pointedly than they would otherwise do and try to have their titles established by judicial

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decisions whenever they are found to be defective. As regards the railway it is only natural to expect that it will gradually tend to promote commercial transactions.

I would repeat that the great difficulty now seems to be to determine whether the objections refer to the principle or to the details. If I am correct in what I have said as to the general principles underlying the Bill, it seems to me that in spite of what my learned friends have urged there is sufficient justification for the step proposed to be taken and, while I admit that more detailed information would be necessary to decide whether each of the provisions in the Bill should be retained or modified, I see nothing to doubt the soundness of the general principle of the Bill. I, therefore, give my hearty support to the Bill. I would conclude by saying that if the Council agrees with me that additional information should be called for, the question of affirming the principle of the Bill may be deferred.

Mr. Govinda Pillai —Sir, the principle of the Bill was considered by me in connection with the Dewan's Memorandum on which I have given my opinion as a Judge of the High Court. I adhere to that opinion and therefore support the Bill. That litigation in Travancore has been and is on the increase will be clear from the examination of the figures for any ten consecutive years. Some means must be devised to copp with the increasing work, and the enhancement of the small cause jurisdiction is one of such means.

My learned friends opposite deplore the loss of the right of appeal in small cause cases as a serious loss. But, if 90 per cent of such cases are in fact confirmed and the remaining 10 per cent have been reversed on points of law or procedure which can be done by the High court in revision under the Bill, then the right of appeal is an expensive luxury the prevention of which would be salutary check on litigiousness. In money suits up to a certain value, the original court is in a far better position to arrive at the truth than an appellate tribunal with the recorded depositions of the witnesses alone before it. There is, however, much force in the objection that the taking away of money suits up to Rs. 300 from the Munsiffs to the Sub Judges and District Judges would be putting parties to some inconvenience; but then there is the advantage of having such suits heard by a presumably superior tribunal in the first instance. There is also some force in the contention that the taking away of appeals to the High Court in the first instance from Munsiffs' decisions in cases of between Rs. 500 and 1000 in value, is depriving the litigants of the benefit of the scrutiny by two experienced heads. But seeing that our District Judges are now and will be hereafter competent and mature lawyers, the objection loses much of its force in cases where they confirm the Munsiffs' findings; and where the courts differ, a second appeal on facts is allowed by the Civil Procedure Code. Hence, by the proposed change there would be in fact no substantial diminution of judicial scrutiny in the class of cases above alluded to, as apprehended. Lastly, as to the objection that our Second Judges do hard work even without independent charge of separate courts, as Sub-Judges, as contemplated in the Bill, it is true that the Second Judges are hard-worked; indeed they are too hard-worked, as we find that the toughest cases generally go into their files. The proposed change will make them masters of their own courts and all cases both heavy and light within clearly defined limits will go to them. I have no doubt that the change will more clearly define the responsibility of each judge and create a sense of such responsibility. Most of the other points urged may be considered in detail if the Bill goes to a Select Committee. With these observations, I support the principle of the Bill.

Mr. Vieyra.—Sir, I have heard with great attention the arguments *pro* and *con*, especially those brought forward by the learned non-official members. I would however remind them that the measure proposed is no drastic reform as they try to make out. The reform of the judicial machinery has been a tentative process for the past 24 years since 1057 and step by step we have been going steadily forward and trying to bring the judicial administration more in line with its British model. My learned friend Mr. Kesava Pillai observed that the conditions of Travancore have not changed to necessitate the modifications in the

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law now proposed. I need only point out that the conditions of Travancore are almost the same as in the neighbouring District of Malabar. We are not left so far behind that District in the matter of judicial administration and I do not see why even less powers than those granted to corresponding judicial officers in the adjoining British parts cannot be granted to our officers who, I may say, are in no way inferior to them.

In regard to the objections raised to the Bill, I think most of them relate to matters of detail and do not touch the principle. However, as some of the members have gone into statistics, I think I may propose that fuller statistics be called for and the affirmation of the principle of the Bill postponed to a future meeting.

Seconded by Mr. Mahadeva Iyer.

The motion to adjourn the further discussion of the principle of the Bill till fuller statistics are obtained was put to the vote and lost.

The original motion for the affirmation of the principle of the Bill was then put to the vote and lost by a majority.

STEAM-BOILERS AND PRIME-MOVERS BILL.

Mr. Mahadeva Iyer.—At the last meeting of the Council I formally introduced this Bill but as 15 days had not elapsed from the date of publication the discussion of the principle was deferred to this meeting. The Bill, as I have already stated, is a close adaptation of Madras Act III of 1893 and contains nothing of a contentious nature. There are only two main provisions in it: (i) the periodical examination of boilers and the issue of licenses for their use; (ii) the issue of certificates of competency to persons entrusted with the management of boilers. These restrictions are, I need hardly say, necessary in the interests of public safety.

I would draw the attention of the Council to the last section of the Bill (section 24) which makes it discretionary with Government to extend the provisions relating to steam-boilers to prime-movers. The question whether the provisions of the Bill should be generally applied to steam-boilers and prime-movers alike engaged the particular attention of the Select Committee which sat on the Bill which was passed into law as Act III of 1893 and I cannot do better than read to the Council an extract from their Report, bearing as it does on an important section affecting the principle of the Bill.

"In one important respect, however, we have altered the principle of the original Bill. We find that before Bombay Act II of 1891 was passed into law considerable discussion took place as to the advisability of applying its provisions to prime-movers. We append an extract from the speech of the Hon'ble Mr. Javerilal Umiaspankar Yajnik at the meeting of the Bombay Legislative Council on the 4th March 1891:—

"The first Boiler Inspection Act (Act VI of 1869) applied to prime-movers as well as to boilers. The second Boiler Inspection Act (Act V of 1873) applied also to both. But when the Act now in force (Act III of 1887) was considered by the Legislature in 1886, this point about the application of the Act to prime-movers was carefully weighed. On the one hand, it was held that there is much ignorance in this country on the subject of machinery and how to work it. On the other hand, it was maintained that such accidents are rare, that they do not often result in loss of life, that examinations of engines are not generally effective in preventing them, and that there are serious objections to an examination which requires large engines to be pulled to pieces and put together again, perhaps in a very hurried manner, in order to avert loss from the stoppage of a large factory. For these reasons the Honorable Mover of the Bill, the late Sir Maxwell Melville, at the meeting of the Legislative Council in October 1886, remarked that 'on the whole it has been thought advisable to exempt prime-movers from inspection, but to reserve power to Government to introduce such inspection, if, from the frequency of accidents or other cause, it should be considered advisable.'

"We further gather from the the Proceedings of the Bombay Legislative Council that in no part of the world, except Bengal and Burma, is the inspection of prime-movers required by law and we note also that negligent conduct with respect to machinery is punishable under section 287 of the Indian Penal Code.

"The result of the exhaustive discussions in Bombay was the enactment of a measure which applies of its own free force to boilers only, but which can be extended by the Government by notification in such a manner as to provide for the inspection of prime-movers also.

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